

218 **IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M-12690-2023

Date of Decision:23.08.2023

Daljeet

...Petitioner

VS.

State of Haryana

...Respondent

Coram : Hon'ble Mr. Justice N.S.Shekhawat

Present : Ms. Himani Anad, Advocate
 for the petitioner.

Ms. Sheenu Sura, DAG, Haryana.

N.S.Shekhawat J. (Oral)

The petitioner has filed the instant petition under Section 439 of the Cr.P.C. with a prayer to grant regular bail to him in case FIR No.207 dated 26.07.2022 registered under Sections 15(C) and 29 (added later on) of Narcotic Drugs and Psychotropic Substances Act, 1885, at Police Station Rajound, District Kaithal.

The FIR in the present case was registered on the basis of the secret information to the effect that Daljeet son of Jaswant Singh and Preet @ Hazaru son of Daler Singh used to sell poppy husk and on that day, they were carrying huge quantity of poppy husk on their motorcycle from village Bilona towards village Mandwal. On getting the information, the compliance of Section 42 of the Narcotic Drugs and Psychotropic Substances Act was made and a barricade was set up on the bridge leading from Village Mandwal to village Bilona. In the meantime, two men riding on a motorcycle were seen and had kept plastic bags

between them and both of them were signaled to stop with the torch light. The said two persons were apprehended by the police party and the man, who was driving the motorcycle, disclosed his name as Daljit son of Jaswant Singh and the pillion rider succeeded in absconding by taking the advantage of the darkness. As per the prosecution, poppy husk weighing 51 kgs and 540 grams was recovered from the possession of the present petitioner. After following the procedure, as prescribed under NDPS Act, the petitioner was arrested at the spot.

Learned counsel for the petitioner contends that the petitioners has been falsely involved in the present case and the quantity of the contraband recovered from the petitioner is marginally above the 'commercial quantity'. Even no independent witness was joined by the police party and the police has not followed the procedure, relating to the search and seizure of the contraband. Apart from that, the petitioner is in custody since 26.07.2022 and is in custody for the last about one year and one month. The petitioner is not involved in any other case. Further, no witness has been examined, out of total 22 witnesses and the conclusion of the trial may take a long time. Learned counsel has also placed reliance on these judgements in (i) CRM-M-37684-2021, Balwinder Singh Vs. State of Punjab, decided on 14.02.2022; (ii) CRM-M-8212-2022, Tajinder Singh Vs. State of Punjab, decided on 03.03.2022 and (iii) CRM-M-35186-2016, Manjit Kaur @ Jeeto vs. State of Punjab, decided on 01.12.2016, whereby the petitioners in the said cases were granted the concession of bail, wherein the accused were arrested with the quantity of contraband, which was marginally above the 'commercial quantity'.

On the other hand, learned State counsel has vehemently opposed the prayer made by learned counsel for the petitioner on the ground that the quantity of contraband recovered from the present petitioner falls within the definition of 'commercial quantity' and the stringent provisions of Section 37 of NDPS Act would be applicable in the present case.

I have heard the learned counsel for the parties and perused the record.

It is not in dispute that the petitioner is incarcerated for the last one year and one month and no witness has been examined so far, out of total 22 witnesses. Apart from that, the alleged recovery of the contraband is just marginally above the 'commercial quantity' and in similar circumstances, the prayer for regular bail has been allowed by co-ordinate Benches of this Court.

Without commenting on the merits of the case, the present petition is allowed and the petitioner is ordered to be released on bail subject to her furnishing bail bonds/surety bonds to the satisfaction of the trial Court/Duty Magistrate/Chief Judicial Magistrate, concerned.

23.08.2023
hemlata

(N.S.SHEKHAWAT)
JUDGE

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No